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SUPREME COURT, U.S.

79-5465

IN THE SUPREME COURT OF THE UNITED

VASIL M. MARKOFF,

Appellant,

vs.

AMERICAN HERITAGE LIFE INSURANCE, a Florida corporation RENEE SADLO and SUSAN FRANCIS,

Respondents.

OPPOSITION TO MOTION TO DISMISS

Appellant, VASIL M. MARKOFF, by and through his uncersigned counsel, hereby opposes the respondents' Motion to Dismiss. This opposition is based upon the jurisdictional statement heretofore filed with this Court and the Points and Authorities herein.

Respondents' Motion to Dismiss is meritless and is supported by neither constitutional law, case law, statutory law or rules. The only basis for the motion is the rule of the State Supreme Court 46(b), which is the very subject of the present appeal -- as discussed in the jurisdictional statement.

Respondents claim the Motion to Dismiss is brought pursuant to United States Supreme Court Rule 16(b) which provides:

> "The Court will receive a motion to dismiss an appeal from a state court on the ground that it does not present a substantial federal question; or that the federal question sought to be reviewed was not timely or properly raised, or expressly passed on; or that the judgment rests on an adequate non-federal basis."

Respondent, AMERICAN HERITAGE LIFE, addressed only one of the grounds set fort in Supreme Court Rule 16(b), to wit, that of the lack of a substantial federal question. The other grounds in Rule 16(b) were never raised; and indeed, there is no cause for so doing. However, as to the "substantial federal question"area, since respondent mentions it, it deserves close scrutiny .

Respondents' motion, at Page 3 addresses this area, and it says in full:

> "Appellant Markoff does not raise a substantial federal question in this appeal. He is not arguing for the rights of indigents to have an effective appeal in civil cases. He is arguing for the right of indigents to inflict amateur briefs upon the Court."

That is it. The whole argument, including supporting authority.

It is clear that this is no basis for dismissing this appeal when the issue before this Court is so fundamental and so basic to the success of our governmental and judicial institutions, that is, the right of a citizen to present his argument before a tribunal of his state, at the very least in written form, so that there may be a determination of his grievances. It is such a simple and obvious right that even this Honorable Court, in its own rules, has made provision for the common citizen to present his grievances before the bar of justice. See, for example, Rules of the Supreme Court of the United States, Rule 53, paragraph 5.

As noted in the jurisdictional statement, appellant's brief was stricken because he was not represented by counsel. Respondent, AMERICAN HERITAGE,

objected to appellant being before the State Supreme Court only on that basis. No objection was made by either the state court or respondent that the brief was confusing, rambling, inarticulate or of little use in determining the issues, or that it was not timely, or not otherwise in conformity with the rules of the State Supreme Court. Thus, the justification advanced by AMERICAN HERITAGE here for State Supreme Court Rule 46(b) is not in issue and it was never raised by them.

As to "special consideration" being given to persons appealing in proper person before a tribunal, as is claimed by AMERICAN HERITAGE, it is hardly a special consideration to have appellant's brief stricken because he is in proper person, and then have the appeal dismissed forthwith because no brief was filed.

The time is at hand to realize that the courts are the institutions of the people. There is no more important federal question than the right of a citizen to present his problem to the bar of justice and have his grievance determined according to the law of the land. If such access is denied a citizen -- be it appellant herein or someone else -- and the courts become the haven for only the wealthy or the intellectual elite, as is the effect of Fule 46(b) of the Nevada Supreme Court, then our system will be cracking and crumbling at its very foundations. Appellant herewith submits that the due process clause and the Fourteenth Amendment to the United States Constitution will not permit that to happen, and for these reasons, the Motion to Dismiss must be denied.

Daniel Markoff

DANIEL MARKOFF
Attorney for Appellant